

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

DAVID PETERS,

Petitioner,

v.

Case No. 2:14-cv-1803

Judge Frost

Magistrate Judge King

WARDEN, LEBANON  
CORRECTIONAL INSTITUTION,

Respondent.

**ORDER**

This is a habeas corpus action under 28 U.S.C. § 2254 in which Petitioner challenges his conviction, following a jury trial in the Franklin County Court of Common Pleas, on charges of carrying a concealed weapon and having a weapon while under a disability. Petitioner specifically contends that the evidence presented at trial was constitutionally insufficient. On September 17, 2015, the Magistrate Judge recommended that the action be dismissed. *Report and Recommendation*, ECF No. 15. Petitioner now objects to that recommendation. *Objection*, ECF No. 18. Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the following reasons, Petitioner's *Objection*, ECF No. 18, is **OVERRULED**. The *Report and Recommendation*, ECF No. 15, is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

According to Petitioner, his convictions were based on the false testimony of police. The Magistrate Judge recommended that Petitioner's claim of insufficient evidence be dismissed on the merits and Petitioner now objects that the Magistrate Judge failed to review sentencing transcripts. However, the only issue before the Court is whether, when viewing the evidence in

the light most favorable to the prosecution, any rational trier of fact could have found him guilty of the offenses charged. *See Jackson v. Virginia*, 443 U.S. 307, 319 (1979). For the reasons discussed by the Magistrate Judge, the record establishes that the state appellate court applied the appropriate constitutional standard when it considered Petitioner's claim, and concluded that the evidence satisfied that standard. This Court agrees with that conclusion and review of the sentencing transcripts is not necessary in order to make this determination. Further, to the extent that Petitioner disputes the factual findings of the state appellate court, he has failed to rebut the presumption of correctness afforded those findings under 28 U.S.C. § 2254(e)(1).

Under these circumstances, Petitioner's *Objection*, ECF No. 18, is **OVERRULED**. The *Report and Recommendation*, ECF No. 15, is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.

/s/ GREGORY L. FROST  
GREGORY L. FROST  
United States District Judge